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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(San Joaquin)

THE PEOPLE,

Plaintiff and Respondent,

v.

MARTHA LYDIA MARTINEZ,

Defendant and Appellant.

C064098

(Super. Ct. No.
TF034638A)

Appointed counsel for defendant Martha Lydia Martinez asked this court to review the record to determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436 (*Wende*).) We find no arguable error and no Penal Code section 4019 concerns. We shall affirm the judgment.

I

A police officer observed defendant riding her bicycle on the sidewalk in violation of the city code. In a search of defendant's person, the officer found 1.99 grams of heroin.

A complaint charged defendant with possession of heroin for sale and alleged a previous drug conviction in 1999. Following her arraignment she waived her right to a preliminary hearing and agreed to plead guilty in exchange for a reduction of the charge to simple possession and a grant of probation pursuant to Penal Code section 1210.1 (which requires successful completion of a program for drug addiction among the conditions of probation). The trial court accepted her plea to the reduced charge, struck the recidivist allegation, suspended the imposition of sentence, granted probation, and imposed a \$220 restitution fine and a \$20 fee for court security.

The trial court subsequently received a petition alleging that defendant failed to report for probation. Defendant admitted the allegation. The trial court revoked, and then reinstated, probation under the previous conditions.

Later, the trial court received a second petition alleging that defendant failed to register with her treatment program. Defendant admitted the allegation. The trial court once again revoked, then reinstated, probation under the previous conditions.

A July 2009 petition alleged that defendant violated probation a third time. The court held a contested hearing on the third petition. A case manager for the treatment program testified that she conducted an intake appointment with defendant in April 2009 and explained all the terms and conditions of the program. The terms and conditions were also incorporated in a contract that defendant signed.

Defendant subsequently had two positive drug tests, gave an adulterated urine sample, had an unauthorized visitor in her room, and failed to keep in contact with the case manager after exhausting her allotment of methadone in early July. Defendant was terminated from the treatment program.

The trial court sustained the third petition and sentenced defendant to prison for the lower term of 16 months, imposing a \$135 lab fee and a \$200 restitution fine effective on any revocation of parole. The trial court awarded 138 days of custody credits and 69 days of conduct credits.

Defendant appealed and requested a certificate of probable cause. The trial court denied the application for the certificate. In May 2010, we received a certified copy of the trial court's minute order and amended abstract of judgment awarding 138 days of conduct credits pursuant to January 2010 amendments to Penal Code section 4019.

II

We appointed counsel to represent defendant on appeal. Counsel filed an opening brief that set forth the facts of the case and asked us to review the record to determine whether there were any arguable issues on appeal. (*Wende, supra*, 25 Cal.3d 436.) Counsel advised defendant of the right to file a supplemental brief within 30 days of the date of filing the opening brief. More than 30 days have elapsed, and we have not received any communication from defendant. Having undertaken an examination of the entire record, we do not find any arguable

error that would result in a disposition more favorable to the defendant.

DISPOSITION

The judgment is affirmed.

_____, MAURO, J.

We concur:

_____, NICHOLSON, Acting P. J.

_____, BUTZ, J.